IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 26.11.2007

CORAM:

THE HONOURABLE MR.JUSTICE K.RAVIRAJA PANDIAN

W.P.No.3428 of 1998
and W.P.M.P.No.1581 of 2007

Suyamprakasam ... Petitioner

Versus

1. The District Collector
Thanjavur District,
Thanjavur.

2. The Special Tahsildar
Adi Dravidar and Tribal Welfare
Thanjavur. ... Respondents

Prayer: Writ Petition under Article 226 of the Constitution of India for the relief of issuance of writ of certiorari as stated therein.

For Petitioner : Mr.V.K.Vijayaraghavan
For Respondent : Mr.P.Subramanian
Government Advocate

O R D E R

The above writ petition is filed for issuance of a writ of certiorari to call for the records of the first respondent in Rc.No.594/98/M2 dated 9.1.1998 and quash the same.

2. The petitioner is the owner of the land measuring an extent of 0.66.5 hectares comprised in S.No.59 A/1, situated in Thirumalaisamudhiram Village in Thanjavur Taluk, which has been under his personal cultivation for the past 30 years . The said land was acquired for the purpose of providing house sites under the Tamil Nadu Acquisition of Land for Harijan Welfare Schemes as per Act 31 of 1978. The petitioner gave representation to the second respondent on 28.10.1997 objecting the proposal of the acquisition. The first respondent without conducting any enquiry

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as contemplated under the provisions of the Act has passed the impugned order. The petitioner was neither heard nor an opportunity was given to him to make his submissions, after the second respondent submitted his report. Without following the principles of natural justice, which are mandatory the first respondent has passed the impugned order. The petitioner's land is an agricultural land. There are other Government poramboke lands available to the villagers. A further legal contention has been raised that the person who has proceeded with the enquiry is not authorised to conduct the enquiry under the statutory provisions. The power vested with the District Collector cannot be delegated to the District Revenue Officer to initiate proceedings under Section 4 of the Act. In support of his contention learned counsel for the petitioner has relied on the decision of this Court in the case of ANNAVU CHETTIAR VS. THE DISTRICT REVENUE OFFICER, VILLUPURAM (2004 -1 -L.W.271).

3. However, learned Government Advocate appearing for the respondents submitted that after issuance of Section 4(1) notification, the land has been acquired as early as 1998. The award has been passed on 9.3.1998. The petitioner has filed the present writ petition and it was admitted only on 11.9.2001. The Supreme Court in the decision in MUNICIPAL COUNCIL AHMEDNAGAR VS. SHAH HYDERBEIG (AIR 2000 SC 671) has held that after the award was passed no writ petition could be filed or maintained challenging the acquisition proceedings. This has been consistently followed and one of the recent cases is C.PADMA VS. DEPUTY SECRETARY TO GOVERNMENT (1997 (2) SCC 627), wherein the Supreme Court has observed as follows:-

> 4 . The admitted position is that pursuant to the notification published under Section 4(1) of the Land Acquisition Act, 1894 (for short 'the Act') in GOR No. 1392 Industries dated 17-10-1962, total extent of 6 acres 41 cents of land in Madhavaram Village, Saidapet Taluk, Chengalpattu District in Tamil Nadu was acquired under Chapter VII of the Act for the manufacture of Synthetic Rasina by Tvl. Reichold Chemicals India Ltd., Madras. The acquisition proceedings had become final and possession of the land was taken on 30-4-1964. Pursuant to the agreement executed by the company, it was handed over to Tvl. Simpson and General Finance Co. which is a subsidiary of Reichold Chemicals India Ltd. It would appear that at a request made by the said company, 66

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cents of land out of one acre 37 cents in respect of which the appellants originally had ownership, was transferred in GOMs No. 816 Industries dated 24-3-1971 in favour of another subsidiary company. Shri Rama Vilas Service Ltd., the 5th respondent which is also another subsidiary of the Company had requested for two acres 75 cents of land; the same came to be assigned on leasehold basis by the Government after resumption in terms of the agreement in GOMs No. 439 Industries dated 10-5-1985. In GOMs No. 546 Industries dated 30-3-1986, the same came to be approved of. Then the appellants challenged the original GOMs No. 1392 Industries dated 17-10-1962 contending that since the original purpose for which the land was acquired had ceased to be in operation, the appellants are entitled to restitution of the possession taken from them. The learned Single Judge and the Division Bench have held that the acquired land having already vested in the State, after receipt of the compensation by the predecessor-in-title of the appellants, they have no right to challenge the notification. Thus the writ petition and the writ appeal came to be dismissed."

4. Admittedly, in this case award has already been passed prior to the filing of the writ petition. In view of the above decision of the Supreme Court MUNICIPAL COUNCIL AHMEDNAGAR VS. SHAH HYDERBEIG (AIR 2000 SC 671), I am not able to subscribe my view to quash the land acquisition proceedings at this point of time. Hence the writ petition is dismissed. Consequently the connected M.P is closed. No costs.

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Krr/

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Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To

1. The District Collector
Thanjavur District,
Thanjavur.

2. The Special Tahsildar
Adi Dravidar and Tribal Welfare
Thanjavur.

1 cc to Mr.V.K.Vijayaraghavan, Advocate, SR.69983
1 cc to Government Pleader, SR.70161

iv (co)

dv/9.1.

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